

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

April 7, 2005

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B5200219
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Zoll Medical Corporation 269 Mill Road Chelmsford, MA 01824	TELEPHONE: James Kaminski (800) 242-9150 Ext. 9881
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-6535 William C. Walsh, CPPB
Contract Compliance Inspector: William C. Walsh (517) 373-6535 Automated External Defibrillators (AED's) – Statewide	
CONTRACT PERIOD: From: February 15, 2005 To: February 1, 2008	
TERMS Net 30 Days	SHIPMENT 14 Days ARO
F.O.B. Destination	SHIPPED FROM Saginaw, MI
MINIMUM DELIVERY REQUIREMENTS	
1 AED	

THIS CONTRACT IS AVAILABLE TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGES(S):

Effective March 16, 2005, this Contract is hereby changed to add the following:

This Contract is hereby extended to Local Units of Government and other Non-profit Organizations through MiDEAL.

All other terms, conditions, specifications and pricing remain unchanged.

AUTHORITY/REASON: Per Acquisition Services

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$304,750.00

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

March 1, 2005

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B5200219
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR		TELEPHONE: James Kaminski (800) 242-9150 Ext. 9881
Zoll Medical Corporation 269 Mill Road Chelmsford, MA 01824		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-6535 William C. Walsh, CPPB
Contract Compliance Inspector: William C. Walsh (517) 373-6535		
Automated External Defibrillators (AED's) – Statewide		
CONTRACT PERIOD: From: February 15, 2005 To: February 1, 2008		
TERMS	SHIPMENT	
Net 30 Days	14 Days ARO	
F.O.B.	SHIPPED FROM	
Destination	Saginaw, MI	
MINIMUM DELIVERY REQUIREMENTS		
1 AED		

NATURE OF CHANGES(S):

Effective February 28, 2005, all orders for AED's under this contract shall be ordered through:

**Mobile Medical Response (MMR) – Mercy Sales, Inc.
834 South Washington Avenue
Saginaw, MI 48605
Contact: Steve Myers
(800) 232-5216, ext. 2450**

Please see pricing page listed in Contract for AED and Supplies pricing.

All other terms, conditions and pricing of this contract shall remain the same.

AUTHORITY/REASON: Per request from vendor and agreement of Acquisition Services.

INCREASE: -0-

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$304,750.00

**APPENDIX A
PRICING PAGE**

MODEL	#20100000102011010	PRICING EACH	\$ 1,395.00
BATTERY	#800-0807-01	PRICING EACH	\$ 59.00
ELECTRODES	#8900-0800-01	PRICING EACH	\$ 117.00

OPTIONS

10% discount applies on all AED Plus accessories.

ORDERS FOR ZOLL AED'S ARE TO BE SENT TO THE FOLLOWING:

**MOBILE MEDICAL RESPONSE (MMR) – MERCY SALES, INC.
834 SOUTH WASHINGTON AVENUE
SAGINAW, MI 48605
CONTACT: STEVE MYERS
(800) 232-5216, ext. 2450**

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

February 24, 2005

NOTICE
OF
CONTRACT NO. 071B5200219
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR		TELEPHONE: James Kaminski (800) 242-9150 Ext. 9881
Zoll Medical Corporation 269 Mill Road Chelmsford, MA 01824		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-6535 William C. Walsh, CPPB
Contract Compliance Inspector: William C. Walsh (517) 373-6535 Automated External Defibrillators (AED's) – Statewide		
CONTRACT PERIOD: From: February 15, 2005 To: February 1, 2008		
TERMS	Net 30 Days	SHIPMENT 14 Days ARO
F.O.B.	Destination	SHIPPED FROM Saginaw, MI
MINIMUM DELIVERY REQUIREMENTS		
1 AED		

The Terms and Conditions of this Contract are attached.

Total Estimated Contract Value: **\$304,750.00**

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B5200219
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Zoll Medical Corporation 269 Mill Road Chelmsford, MA 01824		TELEPHONE: James Kaminski (800) 242-9150 Ext. 9881
		VENDOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-6535 William C. Walsh, CPPB
Contract Compliance Inspector: William C. Walsh (517) 373-6535 Automated External Defibrillators (AED's) – Statewide		
CONTRACT PERIOD: From: February 15, 2005 To: February 1, 2008		
TERMS Net 30 Days	SHIPMENT 14 Days ARO	
F.O.B. Destination	SHIPPED FROM Saginaw, MI	
MINIMUM DELIVERY REQUIREMENTS 1 AED		
MISCELLANEOUS INFORMATION: The Terms and Conditions of this Contract are attached.		
Total Estimated Contract Value: \$304,750.00		

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the **ITB No.07114001372**. Orders for delivery of equipment will be issued directly by the **Department of Management and Budget** through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE VENDOR:

Zoll Medical Corporation

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

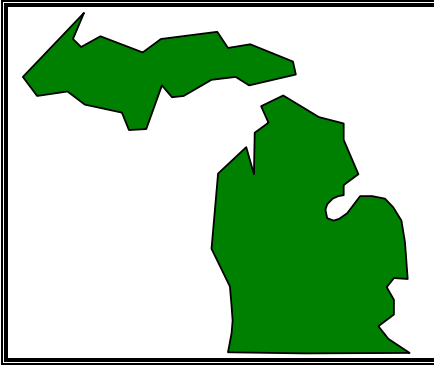
FOR THE STATE:

Signature
William C. Walsh, CPPB

Name
**Commodities Division Acquisition
Services**

Title

Date



STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services

Contract No. [071B5200219](#)
[Automated External Defibrillator \(AED\)](#)

Buyer Name: [William C. Walsh, CPPB](#)
Telephone Number: [\(517\) 373-6535](#)
E-Mail Address: walshw@michigan.gov



Automated External Defibrillator (AED)

Article1 – Statement of Work (SOW)	1
1.0 Introduction	1
1.001 DEFINING DOCUMENT	1
1.002 PROJECT TITLE AND DESCRIPTION	1
1.003 PROJECT CONTROL	1
1.004 COMMENCEMENT OF WORK	1
1.1 Product Quality	1
1.101 SPECIFICATIONS	1
1.102 RESEARCH AND DEVELOPMENT	3
1.103 QUALITY ASSURANCE PROGRAM	3
1.104 WARRANTY FOR PRODUCTS OR SERVICES	4
1.2 Service Capabilities	5
1.201 CUSTOMER SERVICE/ORDERING	5
1.202 TRAINING	7
1.203 REPORTING	7
1.204 SPECIAL PROGRAMS	7
1.205 SECURITY	7
1.3 Delivery Capabilities	7
1.301 TIME FRAMES	7
1.302 MINIMUM ORDER	7
1.303 PACKAGING	7
1.304 RESERVED	7
1.305 DELIVERY TERM	8
1.306 RESERVED FOR ACCEPTANCE OF DELIVERABLES/PARE EXPLANATION	8
1.4 Project Price	8
1.401 PROPOSAL PRICING	8
1.402 QUICK PAYMENT TERMS	8
1.403 PRICE TERM	9
1.5 Quantity term	9
1.6 RESERVED	9
Article 2 – General Terms and Conditions	10
2.0 Introduction	10
2.001 GENERAL PURPOSE	10
2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR	10
2.003 NOTICE	10
2.004 CONTRACT TERM	10
2.005 GOVERNING LAW	11
2.006 APPLICABLE STATUTES	11
2.007 RELATIONSHIP OF THE PARTIES	11
2.008 HEADINGS	12
2.009 MERGER	12
2.010 SEVERABILITY	12
2.011 SURVIVORSHIP	12
2.012 NO WAIVER OF DEFAULT	12
2.013 PURCHASE ORDERS	12
2.1 Vendor/Contractor Obligations	12
2.101 ACCOUNTING RECORDS	12
2.102 NOTIFICATION OF OWNERSHIP	12
2.103 RESERVED	13
2.104 RESERVED	13
2.105 RESERVED	13
2.106 RESERVED	13
2.107 RESERVED	13
2.108 COMPETITION IN SUB-CONTRACTING	13
2.109 CALL CENTER DISCLOSURE	13
2.2 Contract Performance	13



2.201	TIME IS OF THE ESSENCE	13
2.202	CONTRACT PAYMENT SCHEDULE	13
2.203	RESERVED	13
2.204	RESERVED	13
2.205	ELECTRONIC PAYMENT AVAILABILITY	13
2.206	RESERVED	13
2.3	Contract Rights and Obligations	14
2.301	INCURRING COSTS	14
2.302	CONTRACTOR RESPONSIBILITIES.....	14
2.303	ASSIGNMENT AND DELEGATION	14
2.304	TAXES	14
2.305	INDEMNIFICATION.....	14
2.306	LIMITATION OF LIABILITY	17
2.307	CONTRACT DISTRIBUTION	17
2.308	FORM, FUNCTION, AND UTILITY	17
2.309	ASSIGNMENT OF ANTITRUST CAUSE OF ACTION.....	17
2.310	RESERVED	17
2.311	RESERVED	17
2.312	RESERVED	17
2.313	RESERVED	17
2.314	WEBSITE INCORPORATION.....	17
2.4	Contract Review and Evaluation.....	17
2.401	CONTRACT COMPLIANCE INSPECTOR	17
2.402	PERFORMANCE REVIEWS.....	18
2.403	AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS.....	18
2.5	Quality and Warranties.....	18
2.501	PROHIBITED PRODUCTS	18
2.502	QUALITY ASSURANCE	18
2.503	INSPECTION	18
2.504	GENERAL WARRANTIES (goods).....	18
2.505	RESERVED	19
2.506	RESERVED	19
2.507	RESERVED	19
2.508	EQUIPMENT WARRANTY	19
2.509	RESERVED	19
2.6	Breach of Contract	19
2.601	BREACH DEFINED.....	19
2.602	NOTICE AND THE RIGHT TO CURE.....	20
2.603	EXCUSABLE FAILURE	20
2.7	Remedies.....	20
2.701	CANCELLATION.....	20
2.702	RIGHTS UPON CANCELLATION	21
2.703	RESERVED	24
2.704	RESERVED	24
2.705	RESERVED	24
2.8	Changes, Modifications, and Amendments	24
2.801	APPROVALS.....	24
2.802	TIME EXTENTIONS	24
2.803	MODIFICATION.....	24
2.804	AUDIT AND RECORDS UPON MODIFICATION	25
2.805	CHANGES	25

**Article1 – Statement of Work (SOW)****1.0 Introduction****1.001 DEFINING DOCUMENT****1.002 PROJECT TITLE AND DESCRIPTION**

This Contract is a Statewide Contract for Automated External Defibrillators (AED's), which shall be available to state agencies, local units of government and other non-profit organizations.

1.003 PROJECT CONTROL**Project Control**

- a. The Contractor will carry out this project under the direction and control of the Department of Management and Budget, Acquisition Services.
- b. Although there will be continuous liaison with the Contractor team, the Contract Administrator will meet as required, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.
- c. The Contractor will submit brief written *semi-annual reports as to purchasing activity*.
- d. The Contractor shall provide the names and title of personnel assigned to this project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status or other unforeseen circumstances may only be made with prior approval of the state.

1.004 COMMENCEMENT OF WORK

Contractor shall show acceptance of this agreement by signing both copies of this Contract and returning it to the Contract administrator. Contractor shall not proceed with performance of the work to be done under this agreement, including the purchase of necessary materials, until both parties have signed this agreement to show acceptance of its terms.

1.1 Product Quality**1.101 SPECIFICATIONS****AED**

1. ZOLL Medical Corporation has been manufacturing and marketing AED's for almost 10 years. This particular AED has been on the market since 2002.
2. Defibrillation Advisory: The AED Plus is programmed internally with a versatile range of detection rates. VF with an average amplitude > 100 microvolts and wide complex VT with rates greater than 150 BPM (adult mode).
3. The ZOLL AED Plus is programmed to change the VT detection rate to >200 BPM when a Pediatric Pad is attached to the unit. Adult and pediatric arrhythmias are quite different and the AED Plus is the only AED available that looks for a pediatric arrhythmia.
4. The setting is based upon AHA Guidelines for 1 minute of CPR, before returning to analysis. Should the guidelines change our software can be adapted to future protocols.
5. The AED Plus does detect noise and artifact during analysis and filters it accordingly.



6. The AED Plus analysis is conducted on three separate segments of the victim. If the initial detection is “shockable” then the patient “converts” the AED plus will detect the change in the victims status and no shock can be deliver.
7. Peer reviewed, published data suggests that analysis during CPR can adversely affect the analysis of the victim and present a potentially harmful situation. ZOLL Medical recognizes this data and will begin analysis only after prompting the rescuer to stand clear.
8. The AED Plus has been successfully tested in loud environments. It does have a backlit text display; and pictogram with a visual roadmap of each step in the rescuer. The AED Plus is the only AED which incorporates the AHA Chain of survival in picture form, to help the rescuer perform each step. The AED Plus display has an elapsed time counter, number of shocks counter, meter for instantaneous CPR feedback, and ECG capability.
9. A training simulator is available for training purposes.
10. A training video is available for training purposes.
11. The AED Plus self test is user configurable for a multitude of desired protocols.
12. The AED Plus self check does check the electrodes, battery and circuitry.

EASE OF USE/SELF TESTING FEATURES

1. The steps required to activate and operate the ZOLL AED Plus follow the American Heart Associations Chain of Survival guidelines: Open Lid, Push On button, Attach electrodes.
2. Two, the power button and shock button is the button used to operate our AED.
3. The diagram on the pads shows how and where to place each electrode per current AHA guidelines.
4. Pads are pre-connected.
5. The voice prompts are designed to provide the appropriate time to perform each step.
6. The battery status is checked during each self test as well as each manual test. The owner is alerted as to the status via both visual and audible prompts.
7. The first of a kind ZOLL AED Plus two-circuit system has a built-in back up.
8. The circuitry is checked during each self test as well as each manual test. The owner is alerted as to the status via both visual and audible prompts.
9. The electrodes are checked during each self test as well as each manual test. The owner is alerted as to the status via both visual and audible prompts.
10. The AED Plus self-test does ensure that the circuitry, capacitor, and battery power will deliver a full energy discharge.

ELECTRODES

1. The shelf life for our CPR-D Pad is 4 yrs., our Stat Pad II's have a 2 year shelf life, and our pediatric pads have a 2 yr. shelf life.
2. Yes, the electrodes are checked during each self test as well as each manual test.
3. The owner is alerted as to the status via both visual and audible prompts.



4. The AED Plus has a one of kind intelligent pediatric application. The ZOLL pediatric application is the only AED to look for a specific data base of pediatric arrhythmia. The ZOLL AED Plus also uses escalating energy settings and measure patient impedance to deliver the appropriate current. The ZOLL AED is the only unit that looks for different arrhythmias for adults and children based upon which pad is attached to the unit.
5. AED electrodes can be connected to all known EMS defibrillators via Either an adaptor or direct connection depending on manufacturer.
6. ZOLL also supports the current AHA guidelines for electrode placement.

CIRCUITRY

1. The circuitry is checked during each self test as well as each manual test. The AED Plus self test is user configurable for a multitude of desired protocols.
2. The user is notified of problem with circuitry via both audible and visual prompts.

RESCUE DATA RETREIVAL

Data is downloaded via an infrared port to any laptop, desktop or PDA with IRDA port. The software is available to all registered users at no charge.

ENERGY DELIVERY

1. Our patented Rectilinear Biphasic Waveform adjusts to each victim's level of impedance individually and thus delivers variable energy levels for optimal delivery of appropriate current to victim.
2. The ZOLL AED Plus measures patient impedance and delivers maximum current based on impedance.
3. The AED adjusts for each patient individually depending on their size and the level of impedance that AED detects.
4. The AED Plus is upgradeable and/or programmable for any future protocols.
5. The ranges are user configurable to accommodate various protocols. The AED plus offers 10 user configurable settings which support the current AHA Biphasic defibrillation protocols.

1.102 RESEARCH AND DEVELOPMENT

ZOLL will expand its presence in all markets and continue to broaden products beyond defibrillation. ZOLL will invest heavily in expanding our distribution networks and advancing resuscitation technology. These efforts will serve ZOLL well as the company works to deliver tools that help increase survival. Additional information on Research and Product Development can be found in the ZOLL 2003 Annual Report.

1.103 QUALITY ASSURANCE PROGRAM

ZOLL's product is designed, manufactured, distributed and serviced under strict controls set forth by ZOLL's Quality System. It has been designed to comply with requirements set forth by the FDA and various regulatory standards and bodies. Our Quality System is certified and audited annually by TUV Rheinland for compliance with ISO 9000. ZOLL received its certification in 1995.

The ZOLL Depot Repair Team is a group of highly skilled, trained professionals that have extensive experience in electronics, product application and process quality control.



The intense quality and environmental testing performed by this team at the factory can not be duplicated in any field environment.

- After receipt of the device at the Repair Depot, a Technical Support Repair Technician will verify the reported malfunction prior to opening the unit.
- The suspect failed board will be replaced with a known “good” test board to verify that the suspected failure is repaired.
- The test board is then replaced by the original “suspect failed board” to again verify the original failure.
- This process verifies that there were no internal connectivity issues that were resolved by just disconnecting and reconnecting a board and that the failure is attributed to the suspect circuit board.
- If the original fault reappears, a known “good” board from stock is installed.
- In most cases, extensive environmental testing is performed (hot soak, cold soak and vibration).
- Board level testing of the defective module is then performed.
- Recertification of each device is completed per factory specifications outlined in the device Service Manual.
- Device is held, pending root cause analysis of the defective module.
- Technical review is performed by the Technical Support Help Desk to verify that the root cause analysis and the replaced module(s) coincide with the reported malfunction.

Before any device is released for shipment, a thorough review of the complaint file is done by the Technical Support Help Desk and the Quality Assurance Department. This is to ensure that the technical evaluation of the reported failure was conclusive and that any determination is reviewed against the reported event. The device will be released for shipment based on the conclusion of this evaluation.

The service costs are covered under the 5-year warranty w/exclusions.

ZOLL offers various calibration programs should the customer so desire. These programs range from annual to every two years. These programs shall be performed by authorized ZOLL technicians from our factory

The AED is serviced at ZOLL Medical Corporation in Chelmsford, MA.

While the device is under warranty, we provide a no charge loaner unit within 24 hours so as the customer is not without equipment. The average turn around time ranges from 10-15 days.

1.104 WARRANTY FOR PRODUCTS OR SERVICES

ZOLL Medical Corporation warrants to the Customer that from the date of installation, or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, whichever first occurs, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period for 5 Years.

During such period ZOLL Medical Corporation will, at no charge to the Customer, either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship; ZOLL Medical Corporation's regular service charges shall apply.

The Factory Warranty covers the Equipment (Defibrillators and Battery Chargers) for 5 Years from the date of shipment from ZOLL Medical Corporation's facility for the following: all parts and labor, all shipping and insurance costs, and a Service Loaner at no charge for use during the repair.

Accessories (cables, paddles, SpO2 sensors, single battery chargers and electrodes) shall be warranted for 90 days from date of shipment. During such period ZOLL Medical Corporation will, at no charge to the Customer, either repair or replace (at ZOLL Medical Corporation's sole option) any part of the accessories found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship; ZOLL Medical Corporation's regular service charges shall apply.



ZOLL Medical Corporation shall not be responsible for any Equipment defect, the failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment, caused by or attributable to: (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment, accessory or software not supplied by ZOLL Medical Corporation (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation; or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) This warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, patient cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory, known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE.

AED WARRANTY/SERVICE/MAINTENANCE/RECALLS

BATTERY

1. Typical new battery offers a stand-by life while in unit of 5 years or 300 shocks.
2. There is no ZOLL warranty on the battery. The batteries used are over the counter manufacturer type 123 lithium batteries.
3. No, the first of a kind ZOLL AED Plus two-circuit system has a built-in battery backup.
4. The battery is checked during each self test as well as each manual test. The AED Plus self test is user configurable for a multitude of desired protocols and intervals.
5. The owner is notified via both an audible and visual prompt which is a Red X which comes on when the Battery is low.
6. If the user is notified that the battery is low via the Red X coming on, there is still 150 checks remaining. However beyond that point if number of shocks will vary if not identified by the customer.
7. The battery has a battery usage indicator which shows when there is 50% of full battery remaining.
8. Simple two step process: open battery compartment insert new batteries. Because of our built in back up power system, the need to change during a rescue is eliminated.

1.2 Service Capabilities

1.201 CUSTOMER SERVICE/ORDERING

ZOLL Medical Corporation provides technical assistance through our Technical Support Department. Should the ZOLL equipment require service, contact the Technical Support Department directly.



Hours of Coverage

Technical Support is available through our Technical Support Help Desk by calling **1- 800-348-9011**, Monday through Friday from **8:30AM to 6:00PM EST**.

The Technical Support Representative will require the following pertinent information to open a Service Request:

- Unit Serial Number
- Description of the complaint
- Department where the equipment is being used
- Patient information if applicable
- ECG strips if available
- Purchase Order number is the device is out of warranty

This information will assist us in performing a full evaluation when the product is received at our Depot. You will be given an RMA number to track the return of your product.

Emergency Service

Technical Support is available on an emergency basis 7 days a week during the hours not covered during a normal business day. Emergency Support is available by calling **1-800-348-9011**.

Repairs

Repair service is provided via Depot Repair at ZOLL Corporate in Chelmsford, MA.

Service is performed by factory trained Service Repair Technicians. Each unit is certified by successfully completing the 6 Month Checkout Procedure as detailed in the appropriate Service Manual, applying a Calibration sticker, and returning the product with a Warranty Repair Form indicating the work performed. As an ISO 9000 certified facility, we retain training records on each employee and are committed to providing the highest level of quality in the servicing of all ZOLL products.

Service Loaners

A Service Loaner is available at no charge during the repair analysis process and is shipped to arrive before 10AM the next business day. ZOLL pays for the shipping and insurance of the customer unit and the Service Loaner while the unit is under Factory or Extended Warranty.

Hourly Labor Rates

Our current Depot Repair Rate is \$105 per hour. This rate is subject to change October 1st of each year.

Overtime Hours and Rates

There is no additional cost for overtime on Depot repaired items.

On-site Service

Repairs are performed at our Repair Depot at ZOLL Corporate in Chelmsford, MA. We do not offer on-site service.

Replacement Parts

All replacement and repair exchange parts are typically available for shipment on the next business day following the request.

Repair Exchange (R/X) Program

The Repair Exchange program allows you to purchase "Repair Exchange Parts" at 50% off List Price. When an order is shipped for a "Repair Exchange Part", you will receive an invoice at full list price. Once the repair is complete, you must return the defective module for repair. Once the defective part is returned, if the module is repairable, you will receive a credit for 50% off the List Price of the Invoice.

Guaranteed Parts Availability

ZOLL guarantees parts for seven (7) years from the last date of manufacture.

Guaranteed Service Turnaround Time

As an ISO 9000 certified facility we are constantly trying to improve our turnaround time while maintaining a high quality of repair. You can expect a less than 10 business day turnaround on repairs. A Service Loaner is available at no charge while the product is being repaired.

Guaranteed Equipment Uptime

You can expect 99% uptime based on typical use and the arrival of a Free Service Loaner by 10AM the next business day.

1.202 TRAINING

ZOLL Technical Support offers a two-day training and certification program, which will enable the attendees to repair and calibrate the defibrillator. This can be purchased through your local ZOLL Sales Representative.

MMR and ZOLL will provide any in-service training required on all aspects of ordering, shipping, billing and receiving. MMR and ZOLL will also provide in-service training on products, installation, and product safety.

MMR can provide onsite CPR/AED American Heart Association training. The discounted cost for 10 students is \$299.00 and \$20.00 for each student. Class sizes should be limited to 25 students however that is negotiable.

1.203 REPORTING

ZOLL can provide monthly or quarterly reports requested by the state. The state must identify the contract when placing an order to allow ZOLL to provide an accurate report. Open Invoice Reports as well as service compliance reports can be generated if requested by the state.

1.204 SPECIAL PROGRAMS

Mobile Medical Response will offer a 24hr., 7 days a week, 365 day a year, Nurse Call Helpline. In addition to the help and information line, MMR will place follow up calls at 3 months for questions and concerns customer may have. A 6-month call to make sure customer is maintaining and checking equipment on a weekly basis. Lastly, a 12-month call to ensure program is running smoothly and see if any additional training is needed.

1.205 SECURITY

ZOLL uses UPS as its preferred carrier.

1.3 Delivery Capabilities**1.301 TIME FRAMES**

ZOLL will deliver the AED's within 14 days ARO.

1.302 MINIMUM ORDER

ZOLL complies with the minimum order requirement of (1) AED.

1.303 PACKAGING

Packaging shall be in compliance with industry standards.

1.304 RESERVED

**1.305 DELIVERY TERM**

Prices shall be quoted "F.O.B. Delivered" with transportation charges prepaid on all orders. Other F.O.B. terms will not be accepted and shall disqualify a bidder from further consideration. This supersedes Instruction #8 on the reverse side of the Invitation To Bid cover page.

Freight Charges - Should an agency order below the minimum order requirement of a Contract, or should a vendor quote F.O.B. Shipping Point on one-time purchases, the Contractor for shipping products must use one of the following carriers. Orders being shipped from or to in the State of Michigan or the States of Illinois, Indiana, Ohio, and Wisconsin, use Alvan Motor Freight (Tel: (800) 632-4172, attention Earl Batenburg); orders being shipped from or to ALL other states, use Roadway Express, Inc. (Tel: (800) 253-3193, attention David Lewis).

United Parcel Service (UPS) must be used in instances where the weight of the shipment is less than 150 lbs., or where shipments could be separated into smaller parcels such as three (3) 50 lb. packages. Also, if the shipment weighs less than 150 lbs, but costs \$3000 or more, it must be sent by the appropriate carrier listed above.

If the Contractor fails to follow these shipping instructions, the State shall pay the carrier used and deduct the difference from the Contractor's invoice for the amount that was charged and the amount that would have been charged if the requested carrier had been used.

1.306 RESERVED FOR ACCEPTANCE OF DELIVERABLES/PARE EXPLANATION**1.4 Project Price****1.401 PROPOSAL PRICING****STATE ADMINISTRATIVE FEE**

The Contractor must collect an Administrative Fee on the sales transacted under this Contract. The Contractor must remit the Administrative Fee in U.S. dollars within thirty (30) days after the end of the quarterly sales reporting period. The Administrative Fee equals 1% of the total quarterly sales reported. Contractor must include the Administrative Fee in their prices.

The Contractor must remit any monies due as a result of the close-out report at the time the close-out report is submitted to Acquisition Services.

The Contractor must pay the Administrative Fee collected by check. To ensure the payment is credited properly, the Contractor must identify the check as an "Administrative Fee" and include the following information with the payment:

Applicable State BPO Number, report amount(s), and reporting period covered.

Contractor must forward the check to the following address:

Acquisition Services
530 West Allegan St.
Lansing, MI 48933

Please make check payable to: Treasurer, State of Michigan

1.402 QUICK PAYMENT TERMS

The State of Michigan is interested in payment terms that reflect cost savings to the State based on an accelerated payment process. Bidders shall discuss quick payment terms that they are offering to the State (i.e. _____% discount off invoice if paid within _____ days). This will be a factor considered in our award decision.

**1.403 PRICE TERM**

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Acquisition Services reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Acquisition Services also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the Contract period unless further revised at the end of the next 365-day period.

Requests for price changes shall be RECEIVED IN WRITING AT LEAST TEN DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.

1.5 Quantity term

Requirements – Vendor agrees to supply all that the state requires

1.6 RESERVED



Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

This Contract is for Automated External Defibrillators (AED's) for the State of Michigan. Exact quantities to be purchased are unknown, however the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

All State agencies, units of local State and members of MiDEAL may issue orders for items listed on this Contract at the same prices, terms and conditions.

2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

This Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services.

Acquisition Services is the sole point of contact in the State with regard to all procurement and Contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process.

Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the Contract from any individual or office other than Acquisition Services and the listed Contract administrator

All communications covering this procurement must be addressed to Contract administrator indicated below:

Department of Management and Budget
Acquisition Services
Attn: William C. Walsh, CPPB
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) 373-6535
walshw@michigan.gov

2.003 NOTICE

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

2.004 CONTRACT TERM

The term of this Contract will be for three (3) years and will commence with the issuance of a Contract. This will be approximately February 1, 2005 through December 31, 2008.

Option. The State reserves the right to exercise two (2) - one-year options, at the sole option of the State. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.



Extension. At the sole option of the State, the Contract may also be extended. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Written notice will be provided to the Contractor within 30 days, provided that the State gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the Contract expires. The preliminary notice does not commit the State to an extension. If the State exercises this option, the extended Contract shall be considered to include this option clause.

2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, Contractor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this Contract; some statutes are reflected in the clauses of this Contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)
MI OSHA MCL §§ 408.1001 – 408.1094
Freedom of Information Act (FOIA) MCL §§ 15.231, et seq.
Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.
MI Consumer Protection Act MCL §§ 445.901 – 445.922
Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.
Department of Civil Service Rules and regulations
Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.
Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.
MCL §§ 423.321, et seq.
MCL § 18.1264 (law regarding debarment)
Davis-Bacon Act (DBA) 40 USC § 276(a), et seq.
Contract Work Hours and Safety Standards Act (CWHSSA) 40 USCS § 327, et seq.
Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795
Rules and regulations of the Environmental Protection Agency
Internal Revenue Code
Rules and regulations of the Equal Employment Opportunity Commission (EEOC)
The Civil Rights Act of 1964, USCS Chapter 42
Title VII, 42 USCS §§ 2000e et seq.
The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.
The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.
The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.
The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.
The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.
Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106
Sherman Act, 15 U.S.C.S. § 1 et seq.
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.
Clayton Act, 15 U.S.C.S. § 14 et seq.

2.007 RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its sub-Contractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and sub-Contractors during the performance of this Contract.

**2.008 HEADINGS**

Captions and headings used in this Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

2.009 MERGER

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

2.010 SEVERABILITY

Each provision of this Contract shall be deemed to be severable from all other provisions of this Contract and, if one or more of the provisions of this Contract shall be declared invalid, the remaining provisions of this Contract shall remain in full force and effect.

2.011 SURVIVORSHIP

Any provisions of this Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of this Contract for any reason.

2.012 NO WAIVER OF DEFAULT

The failure of a party to insist upon strict adherence to any term of this Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of this Contract.

2.013 PURCHASE ORDERS

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

2.1 Vendor/Contractor Obligations**2.101 ACCOUNTING RECORDS**

The Contractor and all sub-Contractors shall maintain all pertinent financial and accounting records and evidence pertaining to this Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on this Contract or extension thereof.

2.102 NOTIFICATION OF OWNERSHIP

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Acquisition Services within 30 days.
2. The Contractor shall also notify the Acquisition Services within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.



The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide Acquisition Services or designated representative ready access to the records upon request;
3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and
4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

2.103 RESERVED

2.104 RESERVED

2.105 RESERVED

2.106 RESERVED

2.107 RESERVED

2.108 COMPETITION IN SUB-CONTRACTING

The Contractor shall select sub-Contractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Contract.

2.109 CALL CENTER DISCLOSURE

The Contractor and/or all sub-Contractors involved in the performance of this Contract providing call or contact center services to the State of Michigan must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this agreement.

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

Contractor is on notice that time is of the essence in the performance of this Contract. Late performance will be considered a material breach of this Contract, giving the State a right to invoke all remedies available to it under this Contract.

2.202 CONTRACT PAYMENT SCHEDULE

All invoices should reflect actual work done. Each state agency will issue a purchase order against the BPO and indicate the ship to/bill to address. Each state agency, local unit of State and MiDEAL member is responsible for their own purchases.

2.203 RESERVED

2.204 RESERVED

2.205 ELECTRONIC PAYMENT AVAILABILITY

Electronic transfer of funds is available to State Contractors. Contractor is encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at www.cpexpress.state.mi.us.

2.206 RESERVED



2.3 Contract Rights and Obligations

2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of this Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of this Contract.

2.302 CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from this Contract. If any part of the work is to be sub-Contracted, the Contract must include a list of sub-Contractors, including firm name and address, contact person and a complete description of work to be sub-Contracted. The State reserves the right to approve sub-Contractors and to require the Contractor to replace sub-Contractors found to be unacceptable. The Contractor is totally responsible for adherence by the sub-Contractor to all provisions of this Contract. Any change in sub-Contractors must be approved by the State, in writing, prior to such change.

2.303 ASSIGNMENT AND DELEGATION

The Contractor shall not have the right to assign this Contract, to assign its rights under this Contract, or delegate any of its duties or obligations under this Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under this Contract without the prior written consent of the Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under this Contract to a sub-Contractor other than a sub-Contractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.

Contractor must obtain the approval of the Director of Acquisition Services before using a place of performance that is different from the address that the Contractor provided in the bid.

2.304 TAXES

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

2.305 INDEMNIFICATION

General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:



1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its sub-Contractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in this Contract;
3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its sub-Contractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;
5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its sub-Contractors in its or their capacity as an employer of a person.

Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its sub-Contractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its sub-Contractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits



payable by or for the Contractor or any of its sub-Contractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub clause.

Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect notwithstanding the expiration or early termination of this Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

- (a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.
- (b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan Stateal or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan Stateal or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.
- (c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

**2.306 LIMITATION OF LIABILITY**

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of this Contract.

2.307 CONTRACT DISTRIBUTION

Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of State unless other arrangements are authorized by Acquisition Services.

2.308 FORM, FUNCTION, AND UTILITY

If this Contract is for use of more than one State agency and if the good or service provided under this Contract do not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

2.310 RESERVED**2.311 RESERVED****2.312 RESERVED****2.313 RESERVED****2.314 WEBSITE INCORPORATION**

The State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.4 Contract Review and Evaluation**2.401 CONTRACT COMPLIANCE INSPECTOR**

Upon receipt at Acquisition Services of the properly executed Contract Agreement, the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of this Contract. However, overseeing this Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract. That authority is retained by Acquisition Services.** The Contract Compliance Inspector for this project is:

Department of Management and Budget
Acquisition Services
William C. Walsh, CPPB
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) 373-6535
walshw@michigan.gov



2.402 PERFORMANCE REVIEWS

Acquisition Services may review with the Contractor their performance under this Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of this Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, this Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of this Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with this Contract's requirements.

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against this Contract, shall be considered default by the Contractor of the terms and conditions of this Contract and may result in cancellation of this Contract by the State. The brand and product number offered for all items shall remain consistent for the term of this Contract, unless Acquisition Services has approved a change.

2.502 QUALITY ASSURANCE

The State reserves the right to periodically test products, which have been received to verify compliance with specifications. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the Contractor shall be responsible for:

1. All costs of testing and laboratory analysis.
2. Disposal and/or replacement of all products which fail to meet specifications.
3. All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.

2.503 INSPECTION

All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of this Contract, the State shall have the right to reject the goods or retain the goods and correct the defects. The Contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the Contractor fails to make arrangements within the specified time period.

2.504 GENERAL WARRANTIES (goods)

Warranty of Merchantability – Goods provided by the Contractor under this Contract shall be merchantable. All goods provided under this Contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label.



Warranty of fitness for a particular purpose – When Contractor has reason to know or knows any particular purpose for which the goods are required, and the State is relying on the Contractor's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.

Warranty of title – Contractor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by vendor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of Contracting, has no knowledge. Goods provided by Contractor, under this agreement, shall be delivered free of any rightful claim of any third person by of infringement or the like.

2.505 RESERVED

2.506 RESERVED

2.507 RESERVED

2.508 EQUIPMENT WARRANTY

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain such equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance in accordance with the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of one (1) year commencing upon the first day following Final Acceptance.

Within three (3) business days of notification from the State, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with this Contract. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

2.509 RESERVED

2.6 Breach of Contract

2.601 BREACH DEFINED

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this Contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this Contract.



2.602 NOTICE AND THE RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under this Contract (either itself or through another Contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its sub-Contractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.
2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under this Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of this Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) this Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its sub-Contractors will not relieve the Contractor of its obligations under this Contract except to the extent that a sub-Contractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the sub-Contractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

2.7 Remedies

2.701 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under this Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.



In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling this Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in this Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of Contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a cancellation for convenience.

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in this Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of this Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel this Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or sub-Contract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.
5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

2.702 RIGHTS UPON CANCELLATION

A. Rights and Obligations Upon Termination

- (1) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and



property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in equipment and software that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables and other Developed Materials intended to be transferred to the State at the termination of this Contract and which are resulting from this Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those sub-Contracts and outstanding orders for material and supplies resulting from the terminated Contract.

- (2) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for partially completed Deliverables, on a percentage of completion basis. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- (3.) If any such termination by the State is for cause, the State shall have the right to set-off against any amounts due Contractor the amount of any damages for which Contractor is liable to the State under this Contract or pursuant to law or equity.
- (4.) Upon a good faith termination, the State shall have the right to assume, at its option, any and all sub-Contracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Services under this Contract by replacement Contract or otherwise as the State may in its sole judgment deem expedient.

B. Termination Assistance

If the Contract (or any Statement of Work issued under it) is terminated for any reason before completion, Contractor agrees to provide for up to two-hundred seventy (270) calendar days after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance at the same rates and charges set forth in the Contract on a time and materials basis in accordance with the Labor Rates indicated within Contractors pricing section. If this Contract is terminated by Contractor under **Section 20**, then Contractor may condition its provision of termination assistance under this Section on reasonable assurances of payment by the State for such assistance, and any other amounts owed under this Contract.

C. Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

**D. End of Contract Transition**

In the event this Contract is terminated, for convenience or cause, or upon expiration, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 270 calendar days. These efforts shall include, but are not limited to, the following:

- (1) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's sub-Contractors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's sub-Contractors.
- (2) Knowledgeable Personnel. Contractor will make available to the State or a Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to deliver products and services to the State. The Contractor personnel will work with the State or third party to help develop a mutually agreeable transition plan, work to transition the process of ordering, shipping and invoicing equipment and services to the State.
- (3) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under the Contract. The Contractor will also provide any licenses required to perform the Services under this Contract.
- (4) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of this Contract, transfer back to the State at their current revision level.
- (5) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after Contract expiration that result from transition operations). The hourly rates or fixed price to be charged will be agreed upon prior to the work commencing.
- (6) Single Point of Contact. Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the Contract until all product and service obligations have expired.

E. Transition out of this Contract

- (1) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the Contractor agrees to perform the following obligations, and any others upon which the State and the Contractor agree:
 - (i) Cooperating with any Contractors, vendors, or other entities with whom the State Contracts to meet its telecommunication needs, for at least two hundred and seventy (270) days after the termination of this Contract;
 - (ii) Reserved.
 - (iii) Providing the State with all asset management data generated from the inception of this Contract through the date on which this Contract is terminated, in a comma-delimited format unless otherwise required by the Program Office;
 - (iv) Reconciling all accounts between the State and the Contractor;
 - (v) Allowing the State to request the winding up of any pending or ongoing projects at the price to which the State and the Contractor agreed at the inception of the project;



- (vi) Freezing all non-critical software changes;
- (vii) Notifying all of the Contractor's sub-Contractors of procedures to be followed during the transition out phase;
- (viii) Assisting with the communications network turnover, if applicable;
- (ix) Assisting in the execution of a parallel operation until the effective date of termination of this Contract
- (x) Answering questions regarding post-migration services;
- (xi) Delivering to the State any remaining owed reports and documentation still in the Contractor's possession.

- (2) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

- (i) Reconciling all accounts between the State and the Contractor;
- (ii) Completing any pending post-project reviews.

2.703 RESERVED

2.704 RESERVED

2.705 RESERVED

2.8 Changes, Modifications, and Amendments

2.801 APPROVALS

This Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

2.802 TIME EXTENTIONS

Time extensions for Contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that this Contract completion date will be extended only for those specific elements related to the changed work and that the remaining Contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

2.803 MODIFICATION

Acquisition Services reserves the right to modify this Contract at any time during the Contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. **IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.**

The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor. The item(s) may be included on this Contract, only if prior written approval has been granted by Acquisition Services.

**2.804 AUDIT AND RECORDS UPON MODIFICATION**

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this Contract to the Contract Administrator in Acquisition Services. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this Contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

2.805 CHANGES

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of this Contract, including changes:
 - (1) In the specifications (including drawings and designs);
 - (2) In the method or manner of performance of the work;
 - (3) In the State-furnished facilities, equipment, materials, services, or site; or
 - (4) Directing acceleration in the performance of the work.
- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:
 - (1) The date, circumstances, and source of the order; and
 - (2) That the Contractor regards the order as a change order.
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

APPENDIX A
PRICING PAGE

MODEL	#20100000102011010	PRICE EACH	\$1,395.00
BATTERY	#800-0807-01	PRICE EACH	\$ 59.00
ELECTRODES	#8900-0800-01	PRICE EACH	\$ 117.00

OPTIONS

10% discount applies on all AED Plus accessories.

ORDERS FOR ZOLL AED's ARE TO BE SENT TO THE FOLLOWING:

MOBILE MEDICAL RESPONSE (MMR) – MERCY SALES INC.
834 S. WASHINGTON AVENUE
SAGINAW, MI 48605
CONTACT: STEVE MYERS
(800) 232-5216 EXTENSION 2450